UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/NGO/77
20 March 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 5

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[16 March 1998]

GE.98-11194 (E)

Protection of economic and social rights

1. With a billion people living below the poverty line in the world, the question of economic and social rights is of acute relevance. Since the cold war, importance has traditionally tended to be given more to civil and political rights than to economic and social rights, yet the latter are a fundamental condition for the exercise of the former: any genuine and substantial realization of freedom requires respect for economic and social rights no less than for civil and political rights. The principles of the universality, indivisibility and interdependence of human rights cannot, therefore, be satisfied in the currently prevailing situation, which makes economic and social rights the poor relations of human rights. Those principles were, however, forcefully reaffirmed in the Declaration and Programme of Action of the World Conference on Human Rights held at Vienna in 1993.

2. It is now time, five years after the Vienna Conference, for the Commission on Human Rights to become more involved in the fight to ensure respect for economic and social rights. Thus far, the Commission's findings have remained vague and have not led to any concrete measures to guarantee protection of these rights. The International Federation of Human Rights Leagues (FIDH), which is campaigning for respect for all human rights worldwide, held its most recent congress, attended by 105 member organizations and a group of international experts, on the topic "Act for respect for economic and social rights".

3. Since the campaign to ensure respect for these rights must be action-oriented, FIDH draws the Commission's attention to the conclusions reached at the end of its congress. The analysis of the situation of economic and social rights is centred on five major themes:

1. Policies and strategies of the international institutions

4. In many cases, the structural adjustment policies implemented by the international financial institutions - World Bank and International Monetary Fund - have had adverse consequences for economic and social rights, especially in the poorest countries and on the most disadvantaged populations, particularly women, rural populations and indigenous groups. The budgetary restrictions imposed by structural adjustment policies and the encouragement of privatization do not favour social and educational investment. The rights to work, health, education and housing are often sacrificed.

5. The importance placed by structural adjustment policies on reducing fiscal deficits as well as the conditionality of loans reduce the room for manoeuvre of States, which tend to disengage themselves from the economic sphere and frequently abdicate more and more of their responsibilities for the realization of economic and social rights.

2. Policies and strategies of the multinational corporations

6. Multinational corporations have acquired considerable weight in decision-making on matters within the realm of national sovereignty. Their role is becoming increasingly political rather than economic. Moreover, their

activities do not necessarily benefit the populations concerned, and are not always conducive to respect for human rights. For example, the process of delocalization and globalization of the economy is prompting them to establish themselves primarily in countries where social safeguards are less rigorous and wages are lower. Through negotiation, they obtain conditions that further serve their interests. Their governing principle of maximizing profits leads them at times to make the already precarious situation of workers even more fragile. However, the multinationals currently enjoy almost total impunity, though their responsibility concerning respect for economic and social rights is clearly coming into play on an increasing scale.

3. The conditionality of development assistance: bases and legitimacy

7. Since the 1980s, respect for democratic principles and human rights has been taken into account in the allocation of development assistance. A breach of these requirements entails the reduction, suspension or cancellation of aid. But the conditionality may be ambiguous, since it is often the people who have to pay the price, and are thus doubly penalized: by the stopping of aid and by the arbitrary practices of the authorities. The effects are more limited on the governments concerned. Conditionality is, therefore, a double-edged weapon that must be handled with caution.

4. Corruption and diversion of development assistance

8. International development assistance is subject to corruption and diversion, serving the private interests of a minority to the detriment of the target groups. The disastrous effect of such exactions on human rights is considerable. This corruption, both national and international, affects public administrations, political circles and the judiciary. The absence of international criminal law and regulations on currency movements encourages diversion. The lack of transparency concerning the routing of aid and the numerous intermediaries ensures their impunity.

5. The justiciability of economic and social rights

9. The violation of economic and social rights, which is very patent in the fields of health, education and housing, directly affects the standards of living of the most disadvantaged groups. These groups do not have effective means for ensuring that their grievances are heard. The remedies must be improved if there is to be genuine respect for economic and social rights.

10. In view of this situation, a number of recommendations were made at the FIDH congress.

11. The recommendations made to the international financial institutions were as follows:

Ensure greater transparency, at all levels, in negotiations on structural adjustment policies;

Establish policies and programmes of cooperation in conformity with the Universal Declaration of Human Rights and establish effective cooperation, within this framework, with human rights NGOs;

Promote the right of indigenous people to define and implement their own development strategies and carry out specific actions for the most vulnerable groups (women, rural populations and indigenous people).

12. The recommendations made to multinational corporations were as follows:

Encourage the inclusion of social clauses in all trade and economic cooperation agreements, making reference in particular to the standards of the International Labour Organization;

Elaborate a charter of ethics or a code of conduct for enterprises with activities abroad, in particular regarding supervision and sanctions, in conformity with the international instruments protecting economic and social rights, and specifically the right to work, and provide for an independent supervisory mechanism.

13. The following recommendations were made for the international community and governments:

Provide for publicity of economic and social rights and apply national policies and laws in conformity with these rights;

Make effective arrangements to ensure the equality of men and women in all fields;

Maintain humanitarian assistance in all circumstances and provide international funding for specific projects targeting the most disadvantaged populations and regions;

Set up a multipartite international body to monitor the conditions for the allocation of official development assistance and the institution of development cooperation programmes. Such supervision would focus on the transparency of aid, the allocation of loans, criteria for rigorous management and respect for fundamental rights and the rights of the State;

Train national leaders in anti-corruption laws;

Create national and international monitoring committees charged with supervising public contracts and banking structures;

Reinforce sanctions for acts of corruption or diversion;

Guarantee the independence and impartiality of the judicial system to ensure that both the corrupters and the corrupted are effectively prosecuted and convicted;

Adopt the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, which affords in particular the possibility for individuals to appeal directly to the Committee on Economic, Social and Cultural Rights of the United Nations.

Appeal to the Commission on Human Rights

14. Since the early 1980s the Commission on Human Rights has considerably enhanced the effectiveness of its action by creating a number of special procedures for monitoring the implementation of various international human rights instruments. However, all the thematic procedures created by the Commission are at present concerned with civil and political rights. None of them deals with economic, social and cultural rights. With the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights, and in order to reaffirm forcefully that human rights are universal and indivisible, the time has come for the Commission to fill that gap and create mechanisms to monitor respect for economic, social and cultural rights, and play a significant role in affording protection against violations of those rights.

15. FIDH considers that the appointment of a special rapporteur for all economic, social and cultural rights would be likely to perpetuate the current imbalance within the Commission on Human Rights, since there are 13 different mechanisms dealing with civil and political rights. It therefore calls on the Commission this year to appoint a special rapporteur on one of the rights guaranteed by the International Covenant on Economic, Social and Cultural Rights, such as the right to education or the right to adequate food and housing, with a view to progressively establishing other mechanisms, at its next sessions, to monitor other economic and social rights.

16. The special rapporteur would be entrusted with gathering and processing information concerning the realization of this right, as guaranteed by the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, and would report to the Commission at its fifty-fifth session.

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